

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

Medical Board of California
1424 Howe Avenue
Greg Gorges Conference Room "F"
Sacramento, CA 95825
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**SPEECH-LANGUAGE PATHOLOGY
& AUDIOLOGY BOARD MEETING MINUTES
MAY 25-26, 2006**

Committee Members Present

Lisa O'Connor, M.A., Chairperson
Rebecca Binge, M.A.
Alison Grimes, Au.D.
Carol Murphy, M.A.
Diana Verdugo, M.S.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Lori Pinson, Staff Analyst
Kathi Burns, Staff Analyst
George Ritter, Legal Counsel

Board Members Absent

Jennifer Hancock, M.A.

Guests Present

Robert Powell, California Speech-Language-Hearing Association
Robert Ivory, Audiologist, California Academy of Audiology
Carol Mayer, California State University, Sacramento
Jane Moir, Continuing Professional Development Provider, LACOE
Rookie Hirsh, Retired Speech-Language Pathologist
Jim Stassi, Sacramento Advocates representing California Academy of Audiology
Kathi Edson, Office of the Governor, Appointments Unit

I. Call to Order

Chairperson O'Connor called the meeting to order at 3:55 p.m.

II. Introductions

Those present introduced themselves.

III. Approval of meeting minutes for January 26-27, 2006 Committee Meeting and Full Board Meeting and February 27, 2006 Telephonic Board Meeting

The Board discussed minor grammatical edits to the minutes.

M/S/C: Grimes/Bingea

The Board approved the January 26-27, 2006 Committee Meeting and Full Board Meeting and February 27, 2006 Telephonic Board Meeting minutes as amended.

IV. Chairperson's Report (Lisa O'Connor)

Ms. O'Connor presented information she gathered regarding the flexible nasendoscopy and rigid stroboscopy issues. She clarified that Senate Bill 1285 does not change existing restrictions for speech-language pathologists to perform flexible nasendoscopy, rather it simply expands the work settings where the procedures may be performed provided that the requirements for medical backup remain. She explained that while rigid stroboscopy has not been deemed an invasive procedure, physician supervision is required in order for a speech-language pathologist to be reimbursed by Medicare for the procedure.

Ms. O'Connor presented a letter from Mark Kander, from the American Speech-Language-Hearing Association (ASHA), which in essence supports SB 1285 legislation as it provides considerable data regarding the safety of the instrumental procedures.

Ms. O'Connor discussed issues related to the shortages of SLPs and presented emails from Mr. Powell regarding the serious nature of the shortages and what action may be necessary to help alleviate the existing situation. One suggestion proposed was to credential bachelor level individuals with a minimal number of field work hours to work exclusively as school-based speech-language pathologists. If this alternative were to be realized, Ms. O'Connor feels it could eliminate employment opportunities for SLPAs in California as it would create a three-tiered system, with the SLPA becoming the least qualified provider and who currently has no authorization to bill Medi-Cal.

Mr. Powell stated that he believes the shortages will continue to be problematic and there seems to be no clear answer. He stated that the California Speech-Language-Hearing Association (CSHA) is trying to address the issue with a broad range of ideas as the demand for services continues to rise and the number of new speech-language pathologists entering the field remains static.

Mr. Powell reported that two new speech-language pathology programs are in the final development stages, California State University San Marcos, and California State University Dominguez Hills.

Ms. O'Connor reported on another matter regarding the professional advocacy of the two state associations, the California Academy of Audiology (CAA) and the CSHA. She explained that meeting minutes of a previous Board meeting reflect that a statement was made to the effect that CAA and CSHA had reached an agreement regarding as to which entity would represent which professional group in the state and that CSHA would serve as the professional voice of speech-language pathology and CAA would be responsible for audiology issues. Ms. O'Connor indicated that she questioned the then president of CSHA about the statement and learned that it was a misinterpretation. Ms. O'Connor stated that she wants the record to be corrected to reflect that CSHA continues to represent both speech-language pathologists and audiologists, and in fact, it is in their

bylaws that CSHA represent both professions. She reiterated that audiologists are welcomed and desired members of CSHA.

Ms. O'Connor also addressed the issue of Auditory Processing Disorders (APD) and suggested that the Board develop an action plan to protect consumers from practitioners who employ unconventional, unsubstantiated, and costly therapeutic techniques to treat APD.

Ms. Del Mugnaio explained that there are existing complaints with the Board regarding practitioners using these unsupported therapies; however, the Board has struggled to find professional experts to review the cases and provide an opinion based on a prescribed "standard of care" or acceptable practice pattern.

Ms. Grimes commented that there should be a way to complete a carefully-controlled evidenced-based literature search to conclude that there is no empirical research to support the use of such techniques as auditory integration therapy (AIT).

Ms. Bingea stated that such research has been done and is included in the American Speech-Language-Hearing Association's position paper regarding APD.

Ms. Del Mugnaio explained that while there have been published position papers regarding the appropriate diagnostic tests to determine whether an individual has APD, the position paper also states that the tests are highly sophisticated and costly and that many audiologists may not have the expertise to correctly administer the battery of tests and further interpret the test results.

The Board continued to discuss the issue of securing an expert opinion regarding practice areas where well-documented and established protocols for intervention have not been embraced by the profession. The Board further agreed that the issues surrounding APD should be presented in the sunset review report.

Ms. Grimes agreed to post an inquiry on the State Leader's Network regarding whether other states have encountered complaints relating to practitioners who have incorrectly diagnosed APD or who may be using unproven treatment options.

V. Speech-Language Practice Committee Report (Lisa O'Connor)

Ms. O'Connor provided an overview of the matters discussed during the Committee meeting and stated that the Board did not pass a motion on the Committee agenda items but, instead, indicated that additional information would be gathered and the matters would be addressed at a future Committee meeting.

M/S/C:Grimes/Bingea

The Board voted to accept the report of the Speech-Language Pathology Committee.

Ms. O'Connor reported that Ms. Verdugo suggested that the Board disseminate information relating to the use and qualifications of speech-language pathology assistants to the consuming public through various parent/consumer organizations and the Department's "Consumer Connection" publication.

VI. Executive Officer's Report (Annemarie Del Mugnaio)

A. Budget Update – Out-of-State Travel Request

Ms. Del Mugnaio provided the Board's new budget projections with two months of the fiscal year remaining. The information indicated that the budget situation, while restrictive, is not in jeopardy of being overspent by the close of the 2005/2006 budget year. It appears that close to one percent of the budget will remain in reserve at the end of the fiscal year.

Ms. Del Mugnaio reported that she is preparing a Budget Change Proposal (BCP) to augment the Board's budget for fiscal year 2007-2008 by approximately \$70,000, to fund the examination validation studies for the national examination(s) in speech-language pathology and audiology. These validation studies are to be conducted every five to seven years and the last report adopted by the Board was in 2001-2002. This process will be facilitated by the department's Office of Examination Resources which employs psychometric experts to facilitate these studies.

Ms. Del Mugnaio explained the process of examination validation and answered various questions from the Board members.

Ms. Del Mugnaio reported that she has made an out-of-state travel request to the department to secure funding for both her and Lisa O'Connor to attend one trip to the National Council of State Boards in Atlanta, Georgia on October 12-14, 2006. Ms. O'Connor has been asked to serve on a panel to discuss encroachment issues and Ms. Del Mugnaio participates in areas addressing administrative issues, including the application of disciplinary guidelines, on-line application and licensing processes, and various other regulatory issues.

Continuing Professional Development Audit 2006 Update

Ms. Del Mugnaio provided statistics for the 2005/06 audit as compiled through May 15, 2006. She stated that the Board is continuing to receive additional documentation from those audited and will provide final audit results at the next meeting.

Ms. O'Connor asked about whether courses taken prior to the renewal period in question are credible to the CPD license renewal requirements, if the course was taken within days of the start of the renewal cycle. Ms. Del Mugnaio explained that the law clearly states that the hours must be accumulated during the two-year renewal period in question.

B. Board Member Appointment Issues

Ms. Del Mugnaio reported that the Board is in dire need of board member appointments. Currently, the following seats remain vacant: an audiologist professional member, the otolaryngologist public member, and a public member appointed by the Speaker of the Assembly. Ms. Del Mugnaio reported that a representative from the Governor's office would be attending the Board meeting on the following day to observe the Board's business.

Ms. Del Mugnaio stated that it is extremely important that all Board members attend every meeting given the shortage of members as Board business cannot be conducted without a quorum of five members present. Ms. Del Mugnaio has been in contact with the Deputy Director of Board Relations, Antoinette Sorrick, and she is following the appointments process carefully.

Ms. Del Mugnaio expressed the importance of having public member representation on a Board and how the Legislature is committed to encouraging an active public presence on each of the regulatory boards.

C. New Bagley-Keene Open Meeting Act Provisions

Ms. Del Mugnaio provided the members a copy of the Act that outlines the changes to the document.

Mr. Ritter outlined a pertinent provision that prevents a board member who attends a board committee meeting from participating in the committee discussion. Otherwise, by doing so, the Committee meeting becomes, in essence, a board meeting which has not been properly noticed to the public. Therefore, when a quorum of the board is present during a committee meeting, those who are not part of the committee should not participate in the committee discussions.

D. Status of Rulemaking Files – Board-Approved Institutions and Advertising of Professional Degrees (California Code of Regulations Sections 1399.152 & 1399.156.4); Information Disclosure Regulations (California Code of Regulations Sections 1399.180 – 1399.187); Citation and Fine Regulations (California Code of Regulations Section 1399.159, 1399.159.01, 1399.159.1 & 1399.159.4), Elimination of Dual Licensure Proposal (California Code of Regulations 1399.170.20)

Ms. Del Mugnaio reported that the citation and fine regulations were adopted and became effective April 28, 2006. The Board can now cite and fine aides, SLPAs, and CPD providers as well as audiologists and speech-language pathologists. Also, the fine amount for a citation and fine was increased to \$5,000 for more egregious violations.

The information disclosure regulations are currently being reviewed by the State and Consumer Services Agency. Once approved, they will be transmitted to department for review and then filed with the Office of Administrative Law.

The board-approved institutions and advertising regulations are currently being reviewed by the Office of Administrative Law. The proposed regulations will update the accreditation standards for board-approved institutions and speech-language pathology and audiology training programs, and will change the parameters for advertising earned academic degrees in the state.

The elimination of dual licensure for speech-language pathology assistant regulations was recently noticed to the public. This proposal would prohibit an individual from holding a license both as a speech-language pathology assistant and as a speech-language pathologist. Once the public comment period ends on June 12, 2006, that package will go forward to the other reviewing authorities.

E. Laws and Regulations Update 2006

Ms. Del Mugnaio reported that the new Speech-Language Pathology and Audiology Practice Act cannot be finalized until the pending regulations are in effect and can be included in the document.

F. Enforcement/Licensing Statistical Reports

Ms. Del Mugnaio reported that the enforcement statistical data document was reformatted to clarify the information provided and to include additional enforcement statistics. It was noted that so far, 95 cases have been closed during this fiscal year due to a focus on enforcement case review and the clearing of case backlogs.

Ms. Grimes asked if the increase in the number of complaints being filed was proportionate to the increase in the number of licensees licensed by the Board. Ms. Del Mugnaio reported that it is not related. It is most likely due to CPD audits, public outreach, improved internet access, and criminal activity reports received from the Department of Justice due to the sophistication of the Livescan program for fingerprinting and reporting subsequent arrest and conviction notices to the Board.

The audience and Board members asked various questions regarding the licensing statistical data.

G. Proposed Topics for the Department of Consumer Affairs “Consumer Connection” Publication

Ms. Del Mugnaio reported that the Department was soliciting articles from the Board to be added to the Department's publication called “Consumer Connection.” It was suggested that the Board provide an article about noise pollution of the 21st Century, e.g., iPods, fitness class music, and stereo systems in cars, etc. In addition, Ms. Del Mugnaio suggested that the article entitled *Children with Speech, Language and Learning Disorders: Finding Some Answers*, recently published in a CSHA publication be provided to the department to include in the “Consumer Connection” fall publication.

It was discussed that the Board should consider writing an article regarding the myths of auditory processing disorders for publication in the newsletter.

VII. Legislation

A. SB 1285 Aanestad - Speech-Language Pathology (Endoscopy/Suctioning)

Ms. Del Mugnaio reported that the Board's letter of support was written with the assistance of Ms. Hancock and submitted to the Legislature. Also, as Ms. O'Connor reported earlier in the day, the bill now primarily deals with expanding the settings where a speech-language pathologist would be authorized to perform flexible nasendoscopy and suctioning. It does not change other existing protocols in terms of supervision parameters and authorization and referral by an otolaryngologist. Ms. Del Mugnaio reported that she had a discussion with the executive officer of the California Board of Registered Nursing and legislative staff at the department regarding the need for speech-language pathologists to be authorized to suction patients during swallowing assessments and

therapy sessions as without such authorization, patients may be at risk of aspirating or choking. Ms. Del Mugnaio explained that once she discussed the situation with the department, she does not believe there will be opposition to the bill.

Mr. Powell reported that the bill was set for hearing on June 13, 2006, with little opposition.

B. SB 1223 Scott- Hearing Aid Health Care Coverage for Children

Ms. Del Mugnaio reported that the bill would mandate that health care insurance plans provide coverage for hearing aid devices to subscribers 18 years of age or younger. She explained that the Board has been on record as supporting this measure in the past; however, the measure was defeated. She reported that SB 1223 is moving through the process, although there has been some opposition. It was voted out of the Senate 29-5. The Board did provide a letter of support and Ms. Del Mugnaio testified in support at the Senate Health Committee hearing on April 26, 2006.

C. AB 2651 Jones- Newborn Hearing Screening

Ms. Del Mugnaio reported that this bill, which would mandate that all hospitals in the state provide newborn hearing screening, was recently amended on May 11, 2006 and referenced the bill text in the board packets. She stated that the Board has not yet discussed the bill or taken a position.

The Board discussed that currently newborn hearing screenings are mandated in a California Children's Service (CCS) hospitals only and that California is one of the only states that does not mandate universal newborn hearing screenings in all hospitals.

M/S/C: Grimes/Murphy

The Board voted to send to support AB 2651 and to forward support letters to each of the reviewing legislative committees.

D. AB 2837 Baca- Medi-Cal LEA Billing

Ms. Del Mugnaio reported that this bill would align speech-language pathology credential standards with the national certificate of clinical competence (CCC) standards of ASHA and state licensing standards thereby authorizing schools to seek reimbursement through Medi-Cal for services provided by credentialed SLPs.

Mr. Powell provided history on the initiative and stated that recently the California Attorney General's Office issued a legal opinion concluding that the credential standards for SLPs is not equivalent to the CCCs or state licensure. He explained that Medicaid policies restrict reimbursement of professional services to providers who hold the highest state standard and that has been identified as the CCC and state licensure.

Mr. Powell stated that the bill will be amended again to create a "preliminary credential" for individuals completing their professional experience externship.

Ms. Del Mugnaio stated that if the bill is passed, applicants may be confused by the two systems for completing the required professional experience as the licensing laws state

that any person completing the required professional experience year must hold a temporary license with the Board.

Mr. Powell commented that future clean-up may be necessary to harmonize the Business and Professions Code and the Education Code.

Ms. Del Mugnaio stated that the language does not directly impact state licensing requirements, however, it does change existing standards for speech-language pathologists to practice in the public school system. She stated that she will be available to legislative staffers to answer questions regarding the bill and will track the progress of AB 2837.

E. Other Legislation of Interest

Ms. Del Mugnaio reported on AB 2564 (Matthews) Health and Safety Code-Health Facilities. This bill excuses health facilities from requiring criminal record clearances for licensed individuals as such individuals have already been fingerprinted and cleared as a condition of licensure.

Mr. Powell reported that he requested the term speech therapists referenced in the bill be corrected to speech-language pathologists. The bill has cleared the Assembly with unanimous support and will be scheduled for Senate hearings.

The Board will continue to watch the bill, and has heard no opposition.

Ms. Del Mugnaio reported on AB 2514 (Runner)-Special Education. This bill prohibits a party involved in a special education due process hearing from refusing to enter into a settlement or conditioning a settlement offer on the receipt of the reimbursement of attorney fees from the other party involved in the hearing.

Mr. Powell commented that there are some on-going federal court cases regarding special education due process hearings and who has the burden of proof in such cases (parents or the schools) and further, who should ultimately be responsible for attorney fees. He stated that California is attempting to define the rules for such proceedings. The Orange County School District was involved in initiating the bill.

The Board discussed the merits of the bill and Ms. Del Mugnaio agreed to track the bill through the process.

Ms. Del Mugnaio reported on proposed legislation she submitted to the Business, Professions and Economic Development Committee for inclusion in the Committee's health omnibus bill. The proposal will correct some omissions that occurred when the Board separated from the umbrella of the Medical Board in 2002. Essentially the proposal will place the Board under B&P Code Sections 725 and 800. Section 725 deems the excessive prescribing of medications or treatments, beyond that accepted as the standard of care within the professional community, to be an act of unprofessional conduct and a misdemeanor offense. Section 800 requires: 1) the Board to maintain records regarding its licensees and all complaint and enforcement documentation; and 2) that various health agencies and insurance companies report settlements, arbitration awards and judgements against a speech-language pathologist or audiologist to the Board. While the Board was under the auspices of the Medical Board, these provisions applied.

Mr. Ritter further explained that by including the Board under B&P Section 800, several other general complaint handling and investigation protections apply to the Board.

The Board adjourned for the day at 6:05 p.m.

9:00 a.m. – May 26, 2006

Speech-Language Pathology and Audiology Full Board Meeting

The Board reconvened at 9:00 a.m.

VIII. Discuss the proposed Regulation Changes [CCR Sections 1399.151.1, 1399.160.3, 1399.160.4, 1399.160.6, & 1399.160.7] Regarding Continuing Professional Development

Ms. Del Mugnaio explained that this regulatory action, which would amend several of the Board's continuing professional development course content provisions, had previously been adopted during the February 27, 2006 Board teleconference meeting, however, there was one significant amendment that had been omitted. The amendment was related to limiting the number of hours of CPD that licensees may accumulate in "indirect client care courses." For this reason, these regulations have not been filed with the Office of Administrative Law and noticed to the public, but instead are being brought before the Board for correction. Ms. Del Mugnaio went on to explain that previously the Board had discussed placing a maximum limit on the number of hours that a licensee may accrue in the areas of self-study, related courses, and indirect client care courses. She explained that the Board decided on a maximum of 4 hours of self-study courses and 4 hours of related courses or indirect client care courses, as defined in the regulation proposal, that a licensee may apply toward the twenty-four hour CPD renewal requirements.

The Board discussed the proposed change and made minor formatting changes to the language for clarity.

Additionally, Ms. Del Mugnaio reported that during the most recent CPD audit, it was noted that some licensees, who teach CPD courses either annually or over multiple academic semesters, are applying hours for the same course each renewal cycle. Ms. Del Mugnaio stated that this practice is in conflict with the intent of continuing education, and that the Board may want to consider restricting the credit for teaching a course to only one time. If the course were to dramatically change from one renewal cycle to the next, it would not be considered the same course, and therefore would be considered a new course offering. Ms. Del Mugnaio reported that although most professionals do not abuse this provision, it has come up and a simple solution would be to change the wording in regulation Section 1399.160.3(e) by striking "during a single renewal period."

M/S/C: Grimes/Bingea

The Board voted to adopt the proposed amendments to CCR 1399.160.2 and 1399.160.3 to place a maximum number of four hours that a licensee may accumulate in "related" courses or indirect client care coursework as applicable toward the CPD license renewal requirements, make minor formatting changes to the text, and strike the words "during a single renewal period" from CCR Section 1399.160.3(e) as outlined in the Board discussion.

The Board discussed that a standard timeline for regulations to be reviewed by the appropriate state agencies and to be approved is approximately 6 to 8 months.

IX. Discuss Status of California Audiology Training Programs and the Transition to Doctoral Education – Review Requirements for Clinical Experience and Method of Tracking

Ms. Del Mugnaio presented a joint letter from the California State University and the University of California announcing that San Francisco State University/ University of California San Francisco, and California State University Northridge/University of California Los Angeles, have been approved to develop joint doctoral programs in audiology and are scheduled to enroll students in Fall 2007 or Spring 2008.

Ms. Del Mugnaio stated that there may be future plans to develop additional training programs on other campuses. However, student enrollment statistics provided by San Diego State's AuD program suggests that enrollment is lower than expected and that such statistics do not support the need for additional AuD training institutions.

Ms. Del Mugnaio referenced a letter to Miles Peterson and Peter Ivory, California State University Los Angeles (CSULA), included in the meeting packets wherein the Board corresponds with the CSULA representatives regarding the institution's existing audiology master's degree program and the status of the students currently enrolled in the program. Ms. Del Mugnaio explained that the Board held a lengthy discussion with both Mr. Peterson and Mr. Ivory at the January 27, 2006 Board meeting where it was learned that approximately six students will graduate from the CSULA audiology master's degree program after the termination of the program's accreditation. She stated that the letter in the Board packets was a written communication to document the Board's discussion with the CSULA program representatives and to invite the representatives to meet with the Board to discuss outstanding concerns.

The Board discussed the issue of licensing students who graduate from an unaccredited program and concluded that such situations may be reviewed on a case-by-case basis based on the student's educational qualifications.

Ms. Del Mugnaio stated the Steve Kramer submitted a request to the Board to review new clinical practicum tracking forms which will be implemented by San Diego State University (SDSU) to track ASHA's AuD program requirements and to satisfy licensing documentation requirements. The forms proposed include detail regarding the clinical experience categories and a breakdown of accumulated hours as required for licensing review.

M/S/C: Grimes/Verdugo

The Board voted to accept the alternate tracking forms for verifying the clinical practicum of audiology doctoral students as proposed by SDSU.

X. Discuss Preparation of Sunset Review Report and Timeline for Final Report Preparation

Updated drafts of the Sunset Review Report, Parts I and II were provided to the Board. Ms. Del Mugnaio reported that it is urgent that the final changes to this report be made as the final report must be adopted at the August Board meeting to meet the September 1, 2006, due date. Additionally, formatting changes must be made and attachments, tables, and final year 2005/2006 statistics must be added.

Ms. Del Mugnaio asked that the Board members complete their changes, edits, and additions and to forward such to her no later than July 7, 2006.

Ms. Del Mugnaio introduced Antoinette Sorrick, Deputy Director of Board Relations, upon her arrival and discussed the issues relating to board member vacancies and the Board's upcoming sunset review process. Ms. Del Mugnaio explained that the Board was in jeopardy of not having a quorum as one of the existing members was faced with a potential conflict which could have prompted a need for resignation. However, legal counsel has advised the board member that the resignation is no longer required at this time.

Ms. Sorrick answered general questions from the Board regarding board member appointments and sunset review procedures.

XI. Proposed Amendments to the SLPAB Strategic Plan for 2005/2006 – Facilitation by Department of Consumer Affairs, Administrative Staff

Travis McCann, the Manager for the Customer Satisfaction and Improvement Programs Division of the department, presented information regarding the state's policies and procedures for developing a comprehensive and functional strategic plan. He referenced the department's strategic plan and advised the Board that the Board's existing plan should be amended to meet the current state standards. Mr. McCann recommended that the Board hold a strategic planning session, facilitated by a member of his team to revise the Board's plan.

The Board decided to hold a Strategic Planning session on the first day of the August 2006 Board meeting to revise its Strategic Plan.

XII. Public Comment on Items Not on the Agenda

No public comments were made at this time.

XIII. Announcements

Next Board Meeting is Scheduled for July 13-14, 2006, Mill Valley

The Board coordinated their schedules and determined that the next Board meeting will be held on August 10-11, 2006, as opposed to the previously scheduled dates of July 13-14, 2006 meeting.

XIII. Future Meeting Dates

The Board scheduled a future meeting for October 26-27, 2006, to be held in the Los Angeles area.

XIV. Adjournment

There being no further discussion, Chairperson O'Connor adjourned the meeting at 1:10 p.m.

Annemarie Del Mugnaio, Executive Officer